



**AGENDA  
CITY OF THE COLONY  
BOARD OF ADJUSTMENT  
WEDNESDAY, OCTOBER 21, 2020  
6:30 PM**

**TO ALL INTERESTED PERSONS**

Notice is hereby given of a **REGULAR SESSION** of the **BOARD OF ADJUSTMENT** of the City of The Colony, Texas to be held at **6:30 PM** on **WEDNESDAY, OCTOBER 21, 2020**, at **CITY HALL, 6800 MAIN STREET, THE COLONY, TEXAS**, at which time the following items will be addressed:

One or more members of the Board of Adjustment may participate in this meeting remotely via videoconference.

This meeting notice, agenda and agenda packet are posted online at [www.thecolonytx.gov](http://www.thecolonytx.gov).

The City Hall Council Chambers will be open for this meeting 30 minutes prior to its start but in light of ongoing public health concerns, we encourage residents to stay home and watch proceedings online via the City's website [www.thecolonytx.gov](http://www.thecolonytx.gov). *If you wish to address the Board of Adjustment in person, you can do so by attending the meeting at City Hall.*

**1.0 CALL REGULAR SESSION TO ORDER**

Citizen Input

**2.0 CONSENT AGENDA**

- 2.1 Consider approval of the minutes of the October 17, 2018 and July 15, 2020 Regular Sessions.

**3.0 PUBLIC HEARING ITEMS**

**3.1 BOA20-0002 The Colony Plaza – Variance**

Conduct a public hearing, discuss, and consider a request for a variance to Section 13-101(a) to allow off-street parking within the twenty-five (25) foot building setback for a multi-building commercial development. The subject site is located west and adjacent to F.M. 423 (Main Street), east of Lake Vista Drive, south of Lake Ridge Drive and north of South Colony Boulevard. The subject site contains approximately 167,470 square feet and is located within the Shopping Center (SC) zoning district and the Gateway Overlay District.

**ADJOURNMENT**

*"Pursuant to the Texas Open Meetings Act, Government Code Chapter 551, one or more of the above items may be considered in executive session closed to the public. Any decision held on such matter will be taken or conducted in open session following the conclusion of the executive session."*

*Persons with disabilities who plan to attend this meeting who may need auxiliary aids such as interpreters for persons who are deaf or hearing impaired, readers or, large print are requested to contact the City Secretary's Office, at 972-624-3105 at least two (2) working days prior to the meeting so that appropriate arrangements can be made.*

**CERTIFICATION**

*I hereby certify that above notice of meeting was posted outside the front door of City Hall by 5:00 pm on the 16th day of October, 2020.*



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Tina Stewart, TRMC, City Secretary



**MINUTES  
CITY OF THE COLONY  
BOARD OF ADJUSTMENT MEETING  
WEDNESDAY, OCTOBER 17, 2018**

After determining that a quorum was present, the Board of Adjustment of the City of The Colony, Texas convened into a regular session which was held on Wednesday, October 17, 2018 at 6:30 p.m. in the City Council Chambers located in City Hall, 6800 Main Street, The Colony, Texas, at which time the following items were addressed:

**Board Members Present:** Constance Yahwak, Chairman, Jan Partin, Casey Truskunas, Gerald Odum, Dean Byers (alternate) and Joel Ortega.

**Staff Members Present:** Iris Browder, Community Image Manager; Brian Mcnuelty, Planning Technician

<b>1.0</b>	<b>CALL REGULAR SESSION OF THE BOARD OF ADJUSTMENT TO ORDER</b>
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Chairman Yahwak called the meeting to order at 6:34 p.m.

<b>2.0</b>	<b>ITEMS FOR CONSIDERATION</b>
<b>2.1</b>	Approve minutes from the September 19, 2018 meeting.

Chairman Yahwak read Consent Agenda Item 2.1 into record.

**Board Member Odum made a motion to approve Item 2.1 as revised, seconded by Board Member Partin. The motion carried (5-0).**

**Meeting was adjourned at 6:36 p.m.**

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**Constance Yahwak, Chairman**

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**Iris Browder, Community Image Manager**

**MINUTES  
CITY OF THE COLONY  
BOARD OF ADJUSTMENT MEETING  
WEDNESDAY, JULY 15, 2020**

After determining that a quorum was present, the Board of Adjustment of the City of The Colony, Texas convened into Regular Session by videoconference meeting which was held on Tuesday, July 15, 2020 at 6:33 p.m. in the City Council Chambers located at City Hall, 6800 Main Street, The Colony, Texas, at which time the following items were addressed:

**Board Members Present:** Constance Yahwak, Chairman, Dean Byers, Gerald Odum, and Collin Witherspoon.

**Board Members Absent:** Joel Ortega, Julie Knapp

**Staff Members Present:** Isaac Williams, Senior Planner; Keyl Groff, Planner; Brian McNulty, Technical Assistant

<b>1.0</b>	<b>CALL REGULAR SESSION OF THE BOARD OF ADJUSTMENT TO ORDER</b>
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Chairman Yahwak called the meeting to order at 6:33 p.m.

<b>1.1</b>	<b><i>CITIZEN INPUT</i></b>
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Chair Yahwak opened the floor for citizen input at 6:33 p.m. No citizen came forward for input. Citizen input was closed at 6:33 pm.

<b>2.0</b>	<b><i>CONSENT AGENDA</i></b>
<b>2.1</b>	<b><i>Consider approval of the minutes of November 20, 2019 Regular Session.</i></b>

Chair Yahwak read Consent Agenda Items 2.1 into record.

A correction to the minutes was requested.

**Member Odum made a motion to approve Consent Agenda Item 2.1 with correction, seconded by Member Byers. The motion carried (4-0).**

<b>3.0</b>	<b><i>PUBLIC HEARING ITEMS</i></b>
<b>3.1</b>	<b><i>BOA20-0001 2901 Darcy Structure - Variance</i></b> Conduct a public hearing, discuss, and consider a request for a variance to Planned Development 23 (PD-23) Tribute at Westbury Phase 3 (Ord. 2019-2351) to allow a 3.5 foot side yard setback where 5 feet are required for an existing residential dwelling. The subject site is located at 2901 Darcy within the Westbury Phase 3 Village of the Tribute Planned Development (PD-23).

Mr. Groff presented the staff report.

Member Odum asks how this lot differs from surrounding lots.

Mr. Groff responded the lot orientation is the same. The case presented is a form board survey mistake.

Member Odum clarified this is a human mistake.

Mr. Groff confirmed this variance is not a request by the homeowner but a variance to correct the mistake.

Member Odum asks if there is a fire hazard with the reduced side yard width.

Mr. Groff explained Fire and Building departments reviewed the case and had no comments.

Member Byers asks if everything else on the site was built to code.

Mr. Groff confirmed.

Chair Yahwak opened the public hearing for public comments.

Mr. Adam Boltz, Construction Manager, shared this was an honest mistake made by the survey company. The Certificate of Occupancy was issued. The homeowners are aware of this variance. His other projects do not have this mistake.

Chair Yahwak closed the public meeting at 6:36 p.m.

**Member Witherspoon made a motion to approve 3.1, seconded by Member Byers. The motion carried (4-0).**

There being no further business to come before the Board, Madam Chair Yahwak adjourned the Regular Session of the Board of Adjustment at 6:48 p.m.

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**Constance Yahwak, Chairman**

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**Isaac Williams, Senior Planner**

## BOARD OF ADJUSTMENT REPORT

**AGENDA DATE:** October 21, 2020  
**DEPARTMENT:** Development Services Department  
**PLANNER:** Keyl Groff, Planner (972) 624-3162

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### **SUBJECT BOA20-0002 The Colony Plaza - Variance**

Conduct a public hearing, discuss, and consider a request for a variance to Section 13-101(a) to allow off-street parking within the twenty-five (25) foot building setback for a multi-building commercial development. The subject site is located west and adjacent to F.M. 423 (Main Street), east of Lake Vista Drive, south of Lake Ridge Drive and north of South Colony Boulevard. The subject site contains approximately 167,470 square feet and is located within the Shopping Center (SC) zoning district and the Gateway Overlay District.

### **APPLICANT**

Bryan Weisgerber P.E, Cross Engineering  
Hagai Rapaport, Owner

McKinney, Texas  
Van Nuys, California

### **EXISTING CONDITION OF PROPERTY**

The property is undeveloped.

### **ADJACENT ZONING AND LAND USES**

North	SF-4, Single-family detached – Lake Ridge Estates
South	SC, Shopping Center – O'Reilly Auto Parts
East	SC, Shopping Center – Colony Park Shopping Center
West	SF-4, Single-family detached – Lake Ridge Estates

### **BACKGROUND**

The subject site is currently undeveloped. A Site Plan for three (3) retail and three (3) office/medical buildings on an approximately 167,470 square-foot commercial development is currently under review with the Development Review Committee. During the site planning process, the applicant identified the need to allow parking to encroach the front building setback.

### **CONSIDERATIONS**

Section 13-101(a) states the following:

“No off-street parking shall be allowed within required setbacks, except that parking for single family and two family dwellings may be located in the driveway of the individual units.”

## **FINDINGS**

According to Section 21-103 of the Code of Ordinances, The Board of Adjustment may grant a variance if all of the following exist:

- 1. The variance is necessary to permit development of a specific parcel of land which differs from other parcels of land because of special circumstances concerning the size, shape, area, topography, conditions and location of the parcel that is the subject of the subject of the variance request.**

The variance exhibit reflects a thirty-foot (32) elevation fall from the south to the north property lines. Building footprints are limited by natural topography, development standards, and feasible development with earthwork and retaining walls.

- 2. That the granting of the variance or special exception will not adversely affect the land use pattern as outlined by the Land Use Plan and will not adversely affect any other feature of the Comprehensive Zoning Plan of the City.**

The proposed parking placement will not affect the Land Use Plan, development patterns or other features of the Comprehensive Zoning Plan.

- 3. That the variance or special exception, if granted, will be no material detriment to the public welfare or injury to the use, enjoyment or value of property in the vicinity.**

An analysis of the surrounding developments reflects a mingling of parking in the front twenty-five-foot (25) building setback.

The subject site will be developed in compliance with the heightened design requirements of the Gateway Overlay District. The proposed development must offer a twenty-foot (20) landscape buffer. The proposed landscape buffer is to include canopy trees, ornamental trees, ornamental shrubs, and a continuous row of evergreen shrubs to screen vehicular use.

In addition to the landscape buffer, a parkway distances the site frontage. Parkway depth at the frontage ranges from approximately fourteen (14) to thirty-eight (38) feet. Texas Department of Transportation Right-of-way and power lines encumber development of the parkway.

### **NOTIFICATION**

Board of Adjustment public hearings require newspaper notification a minimum of ten (10) days prior to the meeting date. A legal notice was published in the *Dallas Morning News* on October 13, 2020. No comments either for or against this request were received as of the printing of this packet.

### **OPTIONS FOR THE BOARD**

1. Approve the request
2. Deny the request
3. Postpone consideration
4. Table item

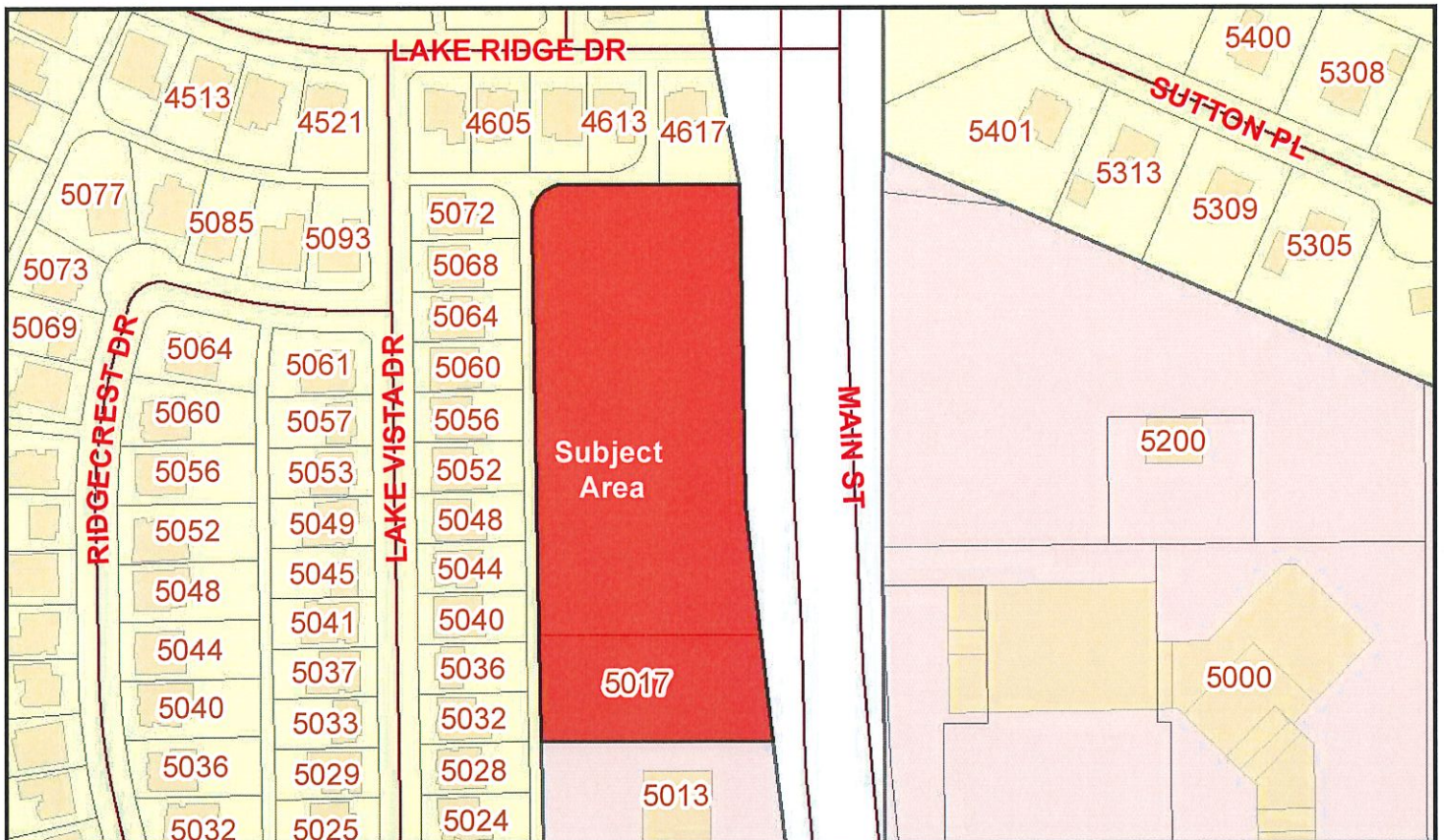
### **RECOMMENDATION**

Staff recommends approval of a variance to allow off-street parking within the twenty-five (25) foot building setback for a multi-building commercial development located within the Shopping Center (SC) zoning district and the Gateway Overlay District.

### **ATTACHMENTS**

1. Location Map
2. Letter of Intent
3. Variance Exhibits
4. Site Photographs





**Project No. BOA20-0002 - Project Name: The Colony Plaza**

<span style="display: inline-block; width: 15px; height: 10px; background-color: red; border: 1px solid black;"></span> The Colony Plaza	<span style="display: inline-block; width: 15px; height: 10px; background-color: blue; border: 1px solid black;"></span> Business Park/Industrial	<span style="display: inline-block; width: 15px; height: 10px; background-color: grey; border: 1px solid black;"></span> Heavy Commercial	<span style="display: inline-block; width: 15px; height: 10px; background-color: yellow; border: 1px solid black;"></span> Mobile Home	<span style="display: inline-block; width: 15px; height: 10px; background-color: lightgrey; border: 1px solid black;"></span> Planned Development	<span style="display: inline-block; width: 15px; height: 10px; background-color: lightgreen; border: 1px solid black;"></span> Townhome
<span style="display: inline-block; width: 15px; height: 10px; background-color: lightblue; border: 1px solid black;"></span> Agricultural	<span style="display: inline-block; width: 15px; height: 10px; background-color: orange; border: 1px solid black;"></span> Duplex Dwelling	<span style="display: inline-block; width: 15px; height: 10px; background-color: darkblue; border: 1px solid black;"></span> Industrial	<span style="display: inline-block; width: 15px; height: 10px; background-color: lightblue; border: 1px solid black;"></span> Neighborhood Service	<span style="display: inline-block; width: 15px; height: 10px; background-color: lightgrey; border: 1px solid black;"></span> Shopping Center	
<span style="display: inline-block; width: 15px; height: 10px; background-color: lightblue; border: 1px solid black;"></span> Business Park	<span style="display: inline-block; width: 15px; height: 10px; background-color: pink; border: 1px solid black;"></span> General Retail	<span style="display: inline-block; width: 15px; height: 10px; background-color: lightblue; border: 1px solid black;"></span> Light Commercial	<span style="display: inline-block; width: 15px; height: 10px; background-color: lightblue; border: 1px solid black;"></span> Office District 1	<span style="display: inline-block; width: 15px; height: 10px; background-color: lightgrey; border: 1px solid black;"></span> Single Family Dwelling	

This map was generated by GIS data provided by The Colony GIS Department. The City of The Colony does not guarantee the correctness or accuracy of any features on this map. These digital products are for illustration purposes only and are not suitable for site-specific decision making.



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# CROSS ENGINEERING CONSULTANTS

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I N C O R P O R A T E D

1720 W. Virginia St.  
972.562.4409

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McKinney, Texas 75069  
Fax 972.562.4471

October 6, 2020

City of The Colony  
Planning Department  
6800 Main Street  
The Colony, Texas 75056

**Re: Board of Adjustment - Variance**

Dear Mr. Groff:

Please find this letter as the formal request for a variance from the Board of Adjustment regarding The Colony Plaza development. The property is located on the west side of FM 423 / Main Street and is approximately 1,000 feet north of South Colony Boulevard. The current zoning of the property is SC (Shopping Center) and allows the development of retail and office/medical by use. The development will consist of three (3) retail buildings and three (3) office/medical buildings with associated parking and infrastructure.

Requesting a variance to allow the proposed head in parking adjacent to Main Street to encroach approximately five (5) feet into the 25' building setback. Please refer to the Board of Adjustment Exhibit. It illustrates the location of the parking stalls encroaching into the building setback in red. There are a few site constraints regarding the subject property that has brought upon the variance request. The lot is generally narrow with approximately 32' of elevation change from the southern property boundary to the northern property boundary. The buildings and internal drives were designed to work with the existing site topography while meeting the City's ordinances and design standards. Designing the access drive off Main Street to TxDOT driveway spacing requirements and utilizing O'Reilly Auto Parts' mutual access easements for secondary point of access. The existing topography requires the development to tier between the building pads in three different sections, as you go from south to north. This results in a minimum of 5' of elevation difference between each tier. The building footprints were dictated by the amount of elevation needed to be made up between each tier while mimicking the natural fall of the existing topography, maintaining slopes for accessibility access across and thru the site, design horizontal drive alignments to adequately provide hose lay coverage and in accordance to the fire lane requirements set forth by the fire department, maintaining marketable building square footages that would support the amount of earthwork, retaining wall and infrastructure costs to make the development feasible. All the above items were key components as to how the parking was laid out for the development. In order to meet the City's parking requirements along with the site constraints, the parking orientation naturally wants to encroach 5' into the building setback. Granting this variance will not have any adverse impacts to the adjacent property's,

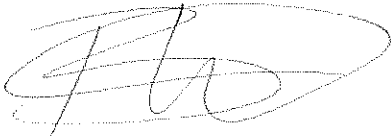
affect the comprehensive zoning plan for this area or be detrimental to public well-being. It is the intent of the owner and all consultants to construct a quality project within the standards set by the City of The Colony for Building and Engineering Design. Project details are listed in detail below:

1. Variance to allow parking to encroach 5' into the building setback
2. Shape of the lot
3. Topography constraints (Approximately 35' of Fall)
4. Building footprints
5. Access drive constraints
6. Current Zoning: SC
7. Proposed Use: Retail & Office/Medical

Thank you in advance for your consideration of the site plan. Please contact me if you have any questions or concerns.

Sincerely,

**CROSS ENGINEERING CONSULTANTS, INC.**

A handwritten signature in black ink, appearing to read 'Bryan Weisgerber', enclosed within a large, hand-drawn oval.

Bryan Weisgerber, P.E.  
Project Manager







